

481—73.6(10A) Auditing and investigative procedures. The department will select the appropriate method of conducting an audit or investigation and will protect the confidential nature of the records being reviewed. The provider may be required, by administrative subpoena, to furnish records to the department. The provider may select the method of delivering any requested records to the department.

73.6(1) Audit or investigative procedures may include, but are not limited to, the following:

- a.* Comparing clinical and fiscal records with each claim.
- b.* Interviewing recipients of services, and employees of providers.
- c.* Examining third party payment records.
- d.* Comparing Medicaid charges with private patient charges to determine that the charge to Medicaid is not more than the customary and prevailing fee. Records of privately paying patients will be requested by subpoena.

73.6(2) Use of statistical sampling techniques. The department's procedures for auditing Medicaid providers may include the use of random sampling and extrapolation. When this procedure is used, all sampling will be performed within acceptable statistical methods, yielding not less than a 95 percent confidence level. Findings of the sample will be extrapolated to the universe for the audit period.

a. The audit or investigative findings generated through the audit or investigative procedures shall constitute prima facie evidence in all department proceedings of the number and amount of requests for payment as submitted by the provider.

b. When the department's audit or investigative findings have been generated through the use of sampling and extrapolation, and the provider disagrees with the findings, the burden of proof of compliance rests with the provider. The provider may present evidence to show that the sample was invalid. The evidence may include a 100 percent audit of the universe of provider records used by the department in the drawing of the department's sample. Any such audit must:

- (1) Be arranged and paid for by the provider,
- (2) Be conducted by a certified public accountant,
- (3) Demonstrate that bills and records not reviewed in the department's sample were in compliance with program regulations, and
- (4) Be submitted to the department with all supporting documentation.